

REMARKS

In the Office Action issued on February 26, 2008, the Examiner:

- rejected all pending claims under the judicially created doctrine of obviousness-type double patenting over Claims 1 through 33 of United States Patent No. 6,200,336, Claims 1 through 21 of United States Patent No. 6,508,833, and Claims 1 through 12 of United States Patent No. 6,974,474;
- provisionally rejected all pending claims under the doctrine of obviousness-type double patenting over Claims 1 through 16 of copending Application Serial No. 09/777,091, Claims 1, 7, and 14 through 25 of copending Application Serial No. 10/721,582, Claims 1 through 19 and 22 through 42 of copending Application Serial No. 10/910,490, Claims 1 through 20 of copending Application Serial No. 11/185,272, and Claims 1 through 29 of copending Application Serial No. 10/828,716;
- rejected Claims 8, 9, 11, 16 through 18, 20 through 22, 27, 28, and 36 under 35 U.S.C. §102(e) as being anticipated by United States Patent Application Publication No. 2003/0130726 to Thorpe ("Thorpe");
- rejected Claims 8, 9, 11, 16, 18, 20 through 22, 27, and 36 under 35 U.S.C. §102(e) as being anticipated by United States Patent Application Publication No. 2002/0138135 to Duerig ("Duerig");and
- rejected Claim 17 under 35 U.S.C. §103(a) as being unpatentably obvious over Duerig in view of United States Patent No. 5,713,950 to Cox ("Cox").

The Applicants have fully considered the February 26, 2008, Office Action and cited references and submit this Reply and Amendment in response to the Examiner's rejections. Reconsideration of the application for patent is requested.

Initial matter – attorney not of record acting in representative capacity

As an initial matter, please note that the undersigned attorney is not of record and is currently acting in a representative capacity pursuant to 37 C.F.R. §1.34 (See M.P.E.P. §405).

Initial matter – Interview Summary

The Applicants thank the Examiner for the telephone interview conducted on April 23, 2008. While no agreement with respect to the claims was reached, the Examiner's thoughts and suggestions regarding proposed claim amendments is considered helpful and is the basis for the amendments made herein.

Rejection of claims for double patenting over issued United States patents

The Examiner rejected all pending claims for obviousness-type double patenting over claims 1 through 33 of United States Patent No. 6,200,336, claims 1 through 21 of United States Patent No. 6,508,833, and claims 1 through 12 of United States Patent No. 6,974,474.

The claims under current consideration include independent Claims 8 and 36. In consideration of other rejections raised in the subject Office action, the Applicants have herein amended independent Claims 8 and 36. Thus, all claims currently under consideration have been amended.

Applicants respectfully assert that all remaining claims define subject matter that is patentably distinct from the subject matter defined by the listed claims of the cited patents. Accordingly, reconsideration of the double patenting rejection is requested.

Provisional rejection of claims for double patenting over copending applications

The Examiner rejected all pending claims for obviousness-type double patenting over Claims 1 through 16 of copending Application Serial No. 09/777,091, Claims 1, 7, and 14 through 25 of copending Application Serial No. 10/721,582, Claims 1 through 19 and 22 through 42 of copending Application Serial No. 10/910,490, Claims 1 through 20 of copending Application Serial No. 11/185,272, and Claims 1 through 29 of copending Application Serial No. 10/828,716.

The claims under current consideration include independent Claims 8 and 36. In consideration of other rejections raised in the subject Office action, the Applicants have herein amended independent Claims 8 and 36. Thus, all claims currently under consideration have been amended.

Applicants respectfully assert that all remaining claims define subject matter that is patentably distinct from the subject matter defined by the listed claims of the cited copending applications. Accordingly, reconsideration of the provisional double patenting rejection is requested.

Rejection of claims under 35 U.S.C. §102(e) - Thorpe

The Examiner rejected Claims 8, 9, 11, 16 through 18, 20 through 22, 27, 28, and 36 under 35 U.S.C. §102(e) as being anticipated by Thorpe.

Applicants have herein canceled claims 9, 11, 16 through 18, 20 through 22, 27, and 28. The rejection of these claims is, therefore, moot.

Applicants have herein amended remaining independent claims 8 and 36 to require that the at least one centering support element be attached to the support frame only at one or more points adjacent the one or more valve leaflets. These amendments to the claims are fully supported by the application as filed; no new matter has been introduced. Exemplary support is found in Figure 84 and

the accompanying discussion.

Each of the interpretations proposed by the Examiner fail to meet this limitation – none result in a centering element that traverses a proximal leaflet surface such that it is free of the surface *and* that is attached to the support frame only at one or more points adjacent to the one or more leaflets.

Indeed, the element of Thorpe characterized by the Examiner as the centering support element is attached to the support frame at multiple points that are not adjacent the valve leaflets. As a result, Thorpe does not disclose this limitation and cannot properly serve as an anticipatory reference of either Claim 8 or Claim 36.

Applicants respectfully assert that this rejection of the claims has been overcome and request its withdrawal.

Rejection of claims under 35 U.S.C. §102(e) - Duerig

The Examiner rejected Claims 8, 9, 11, 16, 18, 20 through 22, 27, and 36 under 35 U.S.C. §102(e) as being anticipated by Duerig.

Applicants have herein canceled claims 9, 11, 16 through 18, 20 through 22, 27, and 28. The rejection of these claims is, therefore, moot.

Each of the independent claims under consideration requires that a portion of the centering support element traverse a proximal leaflet surface of one of the leaflets and that it be *free of contact with the this leaflet surface*.

Each of the interpretations proposed by the Examiner fail to meet this limitation – none result in a centering element that traverses a proximal leaflet surface *and that is free of contact with the surface*. Despite the Examiner's assertion to the contrary, the bent struts 108 are specifically designed to contact and support the leaflets of the Duerig valve. See, for example, paragraph [0045]:

For example, if triangularly shaped valve flaps are utilized, two deformed struts 108 may be utilized as the legs of the triangularly shaped valve flap, and *the length of the deformed struts 108 should be substantially equal to the radius of the stent 100 so that the apex of each triangularly shaped valve flap meets and is supported in the center of the lumen in order to substantially occlude the lumen in the absence of a pressure differential as described above.*

(Duerig, paragraph [0045], emphasis added)

Duerig does not, therefore, disclose this limitation and cannot properly serve as an anticipatory reference of any remaining claim. Applicants respectfully assert that this rejection of the claims has been overcome and request its withdrawal.

Rejection of claims under 35 U.S.C. §103(a)

The Examiner rejected Claim 17 under 35 U.S.C. §103(a) as being unpatentably obvious over the combination of Duerig and Cox. The Applicants have herein canceled Claim 17. The rejection of this claim is, therefore, moot.

CONCLUSION

The Applicants have fully responded to the objections and rejections listed by the Examiner in the February 26, 2008, Office Action. The Applicants respectfully assert that all claims currently under consideration define patentable subject matter and that a Notice of Allowability is appropriate.

Should the Examiner have any questions regarding this Reply and Amendment, or the remarks contained herein, the undersigned attorney would welcome the opportunity to discuss such matters with the Examiner.

Respectfully submitted,

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